

# New Hampshire Council on Resources and Development

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## FINAL MINUTES COUNCIL ON RESOURCES AND DEVELOPMENT MARCH 7, 2007

### MEMBERS PRESENT

Amy Ignatius, Chairman, Director of the NH Office of Energy and Planning  
William Carpenter, for George Bald, Commissioner of the NH Dept. of Resources and Economic Development  
Timothy Drew, for Thomas Burack, Commissioner of the NH Dept. of Environmental Services  
James McConaha, for Van McLeod, Commissioner of the NH Dept. of Cultural Resources  
Richard Uncles, for Stephen Taylor, Commissioner of the Dept. of Agriculture, Markets and Food

### OTHERS PRESENT

Jennifer Czysz, NH Office of Energy and Planning  
John Mangan, Windham Depot Advisory Committee  
David Sullivan, Windham Town Administrator  
Michele Zydel, NH Office of Energy and Planning

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Chairman Ignatius called the meeting to order at 9:40 AM at the New Hampshire Department of Environmental Services, 29 Hazen Drive, Concord, NH.

### **I. MINUTES**

#### **A. Approval of CORD Meeting Minutes of January 11, 2007.**

Chairman Ignatius opened discussion regarding proposed changes to the minutes as submitted by Mr. Drew, the Lakes Management Advisory Committee, and the Rivers Management Advisory Committee. Chairman Ignatius acknowledged receipt of a letter dated February 28, 2007 from the Lakes Coordinator and Rivers Coordinator in which they clarify their role in the Surplus Land Review process. Mr. Drew confirmed that communication between the Department of Environmental Services, LMAC, and RMAC has improved over the past two to three years stating that information sharing typically exceeds what is submitted with review documents as it predominantly occurs through face-to-face dialogue. Ms. Czysz summarized the context of the letter by stating that LMAC and RMAC are independent bodies and may form independent decisions from DES.

Chairman Ignatius stated that the language in Section IV, paragraph B of the January 11, 2007 minutes will be revised to read that any problems with communication between DES, LMAC, and RMAC occurred in the past and have since been improved.

Mr. Drew noted that the CORD meeting schedule should be changed to document that it was rescheduled from March 1<sup>st</sup> to March 7, 2007. Chairman Ignatius stated that the change of date will be shown as an aside to the original date. Mr. Drew also requested the following revisions:

- Thomas Burack, Commissioner of the NH Department of Environmental Services, be listed as the Council member in place of Michael Nolin;
- In Section I, paragraph B, “parcels” is changed to read “acreage;”
- Section V, paragraph E, “Legislatures” is changed to read “Legislators.”

**ACTION:** MOVED by Mr. Drew, seconded by Mr. Carpenter, THAT the minutes of the Council meeting held on January 11, 2007 be approved, incorporating changes as discussed. The motion passed unanimously, 5-0. Due to the lack of a quorum, a ballot vote will be issued.

## **II. DISPOSAL OF STATE OWNED SURPLUS LAND REVIEW (SLR)**

### **A. WINDHAM**

**SLR 07-001**

#### **Request to enter into a 25-year lease with the Town of Windham for the storage building, depot building, and sand and storage area at Windham Depot**

The Department of Resources and Economic Development (DRED) has received a request from the Town of Windham to extend the current three year Special Use Permit for use of the historic state-owned Windham Depot, freight shed, and some surrounding property for storage of salt and sand. Because the Town of Windham has demonstrated a sincere desire to improve the public use of the Depot property and to preserve its historical significance, DRED wishes to enter into a 25-year lease with the town. The town is investigating other locations to store the salt and sand by 2008-2009. The intended future use of the site is for historic preservation, recreational use, and restoration of the site’s buildings.

#### **STAFF REPORT**

**30-day review period ended February 23, 2007.**

**Administrative Services:** No comment.

**Agriculture, Markets, and Food:** No interest.

**Bureau of Emergency Management:** No comment.

**Division of Historical Resources:** No comment.

**Education:** No comment.

**Energy and Planning:** No comment.

**Environmental Services:** Supports continued lease given:

- BMPs are employed to protect surface and groundwater quality;
- Improvements are made to the existing salt and sand storage conditions;
- Salt and sand storage are ultimately relocated to an alternative site.

***Fish and Game:*** No objection.

***Housing Finance Authority:*** No comment.

***Health and Human Services:*** No comment.

***Resources and Economic Development:*** No comment.

***Safety Services:*** No comment.

***Transportation:*** No comment.

***Lakes Management Advisory Committee:*** Not applicable.

***Rivers Management Advisory Committee:*** Approves with the condition that salt and sand storage be discontinued within five years. See email on file.

***Public Waters Access Advisory Board:*** No comment.

***State Conservation Commission:*** No objection with the request that salt and sand storage be relocated and the town “exercise stewardship” to protect nearby water resources. See letter on file.

***Town of Windham:*** No comment.

### **March 7, 2007 Discussion:**

Mr. John Mangan, a 36 year resident of Windham and abutting-property owner to the site, presented Council with a background of the site’s history and proposed plans for the restoration and preservation of its historical character. He noted that the site has been used by the Town of Windham for 30 years to store salt and sand, and that the town listed it as a historic district in 2003, not only for the existing structures that date back to the mid 1800’s, but because of the diverse recreational opportunities it offers. Due to the town’s renovation efforts, the site has become an invaluable asset to the community by providing 4.1 miles of paved path used by bicyclists, walkers, and runners; a stone dust path for equestrian use; access to two ponds, one of which is fed through a natural beaver dam; and provides a wildlife refuge for a wide variety of birds and animals.

He further noted that in 2002, the Depot Road Advisory Committee developed a long-range plan to relocate the salt and sand facility to a more environmentally safe site that would provide the additional space needed to store larger quantities of salt and sand now required to treat town roads. Plans also include renovating the existing structures, transforming one into a train museum as this site once served as an intersection for the Manchester & Lawrence Railroad and the Nashua & Rochester Railroad, and re-enhancing the parking lot to accommodate horse and snowmobile trailers.

Mr. Mangan and Mr. Sullivan, Windham Town Administrator, conveyed that the town has been awarded federal and state grants totaling \$160,000 for the various phases of renovation and the town itself is investing \$60,000. They recommended logging onto the Windham Trail Alliance website ([www.windhamrailtrail.org](http://www.windhamrailtrail.org)) for additional information on the site's history and fundraising efforts.

Chairman Ignatius asked Mr. Mangan to identify the areas to be leased. Mr. Sullivan responded that although the lease applies only to the Windham Depot building and freight shed, the town would seek permission to utilize the whole area as the town only owns abutting land on either side of the site.

Mr. McConaha asked if the site's maintenance and stewardship would become the town's obligation. Mr. Mangan responded that a local volunteer organization has taken charge of the path and grounds maintenance since June. Mr. Sullivan stated that the town will manage the maintenance and preservation of the buildings.

Chairman Ignatius noted that RMAC expressed no opposition to the project, provided the salt and sand operation is relocated within 5 years. Mr. Sullivan stated that \$120,000 and a feasibility study on site relocation have been invested in this effort.

Chairman Ignatius asked Mr. Carpenter if he knew of any State plans to expand on this project in or around the site. Mr. Carpenter stated he was not aware of any but noted that the lease will be crafted to allow for that possibility. He stated that they will draft the lease so it allows for growth, paying close attention to identifying the areas and items to be leased.

Mr. Uncles asked Mr. Carpenter how the Dept. of Resources and Economic Development became involved in this request and if he knows why the State is interested in retaining it. Mr. Carpenter responded that DRED had been charged with railroad bed maintenance many years ago and he is unsure of their interest in retaining such properties.

Chairman Ignatius stated that if a decision was made to switch from lease to sale, this project would warrant further consideration.

Chairman Ignatius, with concurrence from other present Council members, stated this was a notable example of smart growth and commended the Town for their commitment and planning efforts at the Windham Depot area and associated trails.

**ACTION:** MOVED by Mr. Uncles, seconded by Mr. Carpenter, THAT Council recommends that the Department of Resources and Economic Development and the Town of Windham enter into a 25 year lease agreement with the following conditions:

- Improvements are made to the existing salt and sand storage conditions;
- Salt and sand storage are relocated to a new site within 5 years of the signed agreement.

The motion passed unanimously, 5-0. Due to the lack of a quorum, a ballot vote will be issued.

Chairman Ignatius will advise Mr. Sullivan of the date it is scheduled to be reviewed by the Long Range Capital Planning and Utilization Committee.

**B. WARREN SLR 07-002**  
**Request to grant an electrical utility easement to NH Electric Cooperative, Inc.**

The Fish and Game Department has received a request from New Hampshire Electric Cooperative, Inc. (NHEC) for an electrical utility easement for the purpose of installing one power pole and associated wiring at the Warren Fish Hatchery, Warren, NH. The NH Fish and Game Warren Fish Hatchery is required to meet new Environmental Protection Agency standards. In order to meet these more stringent EPA requirements, all of the piping at the Department's hatcheries must be consolidated into a single point discharge. In order to accomplish this, the piping will need to be reconfigured to a single point that will be to an enclosed building requiring electrical power. Currently, electric power is not available at the site and is contingent on the siting of a power pole at the Hatchery.

**STAFF REPORT**

**30-day review period ends March 28, 2007.**

*Administrative Services:* No comment.

*Agriculture, Markets, and Food:* No comment.

*Bureau of Emergency Management:* No comment.

*Division of Historical Resources:* No comment.

*Education:* No comment.

*Energy and Planning:* No comment.

*Environmental Services:* Supports the request and determines the piping consolidation will likely be more cost efficient and yield a more controlled structure from which to sample combined effluent before it is discharged. The pole will not result in any appreciable environmental impact.

*Fish and Game:* No comment.

*Housing Finance Authority:* No comment.

*Health and Human Services:* No objection.

*Resources and Economic Development:* No concerns.

*Safety Services:* No objection.

*Transportation:* No comment.

*Lakes Management Advisory Committee:* Not applicable.

*Rivers Management Advisory Committee:* Will review and submit comments following their March 27, 2007 meeting.

**Public Waters Access Advisory Board:** No comment.

**State Conservation Commission:** No objection.

**Town of Warren:** No comment.

**March 7, 2007 Discussion:**

Chairman Ignatius recommended tabling this request due to the absence of a Council member from Fish and Game. She also stated that the review period ends March 28<sup>th</sup>, RMAC is due to meet on the 27<sup>th</sup>, and she would like to receive their comments prior to Council's final recommendation.

Discussion focused on the following:

- Should an administrative fee be assessed (noting RSA 4:40 III-a now requires a \$1,100 administrative fee of all property disposals);
- Is there an RSA governing or exempting this type of project from Council review;
- If we are creating an easement for the State's own benefit, why is a review necessary?

Ms. Czysz quoted paragraph IV of RSA 4:40, *Acquisition and Disposal of Real Estate*:

*"This section shall not apply to sale of institutional lands as provided by RSA 10:4, to real estate given or bequeathed to the state under provisions of trust or in settlement of public assistance claims or liens, or to state lands or their products required to be held to procure a continuance of federal conservation work; provided, however, that the state-capitol-region planning commission shall be provided written notice 60 days before any sale in the city of Concord or Concord area. This section shall also not apply to the exchange of state-owned lands for other lands of equal or greater value, which are under the jurisdiction of a department and used by such department during right-of-way negotiations or to the sale of buildings that need to be moved to clear such right-of-way for public projects found necessary under other state laws."*

Council decided this statute does not apply to this type of request.

Mr. Carpenter cited RSA 371:18 *Proceedings to Acquire Property or Rights - Rights in Public Waters and Lands* in which similar projects to this request are exempted Public Utility Commission review. The applicable RSA 371:18 text states:

*"Exception. – The requirement for petition to and hearing by the commission as provided in RSA 371:17 shall not be required when the license is requested by the public utility for the exclusive purpose of furnishing facilities to the state, or any department or agency thereof."*

Chairman Ignatius stated she would work on the jurisdictional question to determine if there is a way to avoid having these types of projects appear on the Surplus Land Review agenda.

**ACTION:** MOVED by Mr. McConaha, seconded by Mr. Drew, to APPROVE the project subject to no adverse comments being received during the remainder of the 30-day comment period. The motion passed unanimously, 5-0. Due to the lack of a quorum, a ballot vote will be issued.

### **III. OLD BUSINESS**

#### **A. SMART GROWTH REPORT**

##### **i. CORD members reviewed the proposed Mission Statement and changed it to read:**

*New Hampshire's state agencies, through their policies, programs, and operations, will serve as a role model to promote sustainable land use and community development that conserves energy, natural resources, the built environment and infrastructure, promotes vibrant communities, and strives to provide a high quality of life for all New Hampshire citizens.*

**ACTION:** MOVED by Mr. McConaha, seconded by Mr. Drew, to APPROVE the mission statement as amended. The motion passed unanimously, 5-0. Due to the lack of a quorum, a ballot vote will be issued.

##### **ii. Prioritized Recommendations.**

Chairman Ignatius suggested reviewing the top five prioritized recommendations based on each agency's selection of four priority items at the January 11, 2007 CORD meeting. Recommendation #6, "*Develop planning tools for local and regional use.*" was addressed since Council members voted it as the second priority (the mission statement was first). She noted that the Smart Growth website has undergone updating that now features examples of smart growth successes.

Ms. Czysz noted that new examples of smart growth in Peterborough will be highlighted in an edition of the OEP newsletter and Chairman Ignatius said the Meredith project, another good case study, will be featured on the Smart Growth website.

Ms. Czysz conveyed that the regional planning commissions are working under the Regional Environmental Planning Program grant program to develop model language that can be used as a tool for implementing smart growth.

Chairman Ignatius recommended the following actions:

- Continue to develop the Smart Growth website;
- Seek out new Smart Growth project examples;
- Publish these examples in the new OEP newsletter;

- Develop innovative land use tools.

Item #1(d), *Agency smart growth training*, was then addressed. Mr. McConaha asked if a major conference could provide a means to communicate smart growth initiatives. Chairman Ignatius replied that the agenda for the OEP Spring Conference, scheduled for April of this year, has been set and that OEP could include smart growth on next year's agenda. Discussion then focused on what groups could be targeted to communicate smart growth initiatives. Developers, financial organizations, community leaders, conservation coalitions, people involved with land trust, and NH State staff were identified. Suggested methods of reaching out to these groups included workshops and the publication of handbooks or guidebooks; a time frame of 1 to 10 years was determined.

## **B. LEGISLATION**

- i. **HB 813-FN:** relative to the management of the land conservation investment program monitoring endowment. Sponsors: (Prime) Judith T. Spang, Martha Fuller Clark.

Chairman Ignatius noted that this is a technical amendment and the hearing date is scheduled for March 8, 2007.

- ii. **HB 710:** establishing a commission to study issues relative to the practice of leasing state-owned real estate on the shores of public waters. Sponsors: (Prime) Rep. Millham, Belk 5; Rep. Cloutier, Sull 4; Rep. Benn, Graf 9; Rep. Bouchard, Merr 11; Sen. Sgambati, Dist 4; Sen. Janeway, Dist 7.

Chairman Ignatius stated that a hearing date has not yet been established.

## **C. CORD COMPOSITION. Discussion of language in RSA 162-C:1 relative to allowing designees to attend as voting representatives of identified members.**

Chairman Ignatius posed the question "Should the same agencies participate?" She offered that some Council members could instead be pulled in as additional advisors when issues relative to their departments were agenda items, eliminating the need for their attendance at all CORD meetings. She also stated that clarification should be made regarding Council participants' authority to vote. She suggested that the participants approach their respective commissioners and directors for their opinion of the current process.

Mr. Uncles stated he has been named Director of the Division of Regulatory Services for the Dept. of Agriculture, Markets and Food, establishing his right-to-vote status.

## **D. SURPLUS LAND REVIEW PROCESS. Discussion of current practices and potential revisions to the application form and tracking of applications. Draft revised application form distributed at the January 11, 2007 meeting via email on February 21, 2007.**



Ms. Czysz gave a brief overview of the revisions explaining that the new format will encourage more detailed responses. The additional information it will generate will help agencies and committees determine the need for their respective participation in the review process. Mr. Carpenter inquired as to whether an electronic version could be distributed and Ms. Czysz responded that it could; however, a hard copy with an original signature would also be required.

Mr. Uncles referred to question #10 that requests a description of other significant resources located on or adjacent to the property under review. He asked that agricultural soils of prime, statewide, or local importance, be added to the list. He further recommended changing the question language from “significant resources” to “sensitive environmental conditions.”

**ACTION:** MOVED by Mr. McConaha, seconded by Mr. Carpenter, to APPROVE the Surplus Land Request Cover Sheet and CORD Request for Surplus Land Review Action form, effective immediately, incorporating the following changes:

- The addition of “agricultural soils of prime, statewide, or local importance” to question #10;
- Question #10 will now read: “Please list any other sensitive environmental conditions known to be located on or adjacent to this property.”

The forms will undergo future consideration of revisions/enhancements per agency recommendations as they are received. The motion passed unanimously, 5-0. Due to a lack of a quorum, a ballot vote will be issued.

**E. LONG RANGE CAPITAL PLANNING AND UTILIZATION COMMITTEE.  
Report on recent CORD communications with the Committee.**

Chairman Ignatius reported that the Long Range orientation meeting she and Ms. Czysz attended was beneficial to all who attended. Committee members thanked Chairman Ignatius and Ms. Czysz for providing them with minutes to CORD meetings, finding them to be very informative. Chairman Ignatius stated that Council members may want to attend Long Range Committee meetings when CORD items appear on their agenda. This will enable CORD to provide additional background information and basis for Council’s recommended action. Chairman Ignatius will notify Council of their next scheduled meeting.

**F. MAPPING STATE-OWNED LANDS. Update on progress made by Environmental Services, Resources and Economic Development, Fish and Game, and Transportation to identify all state-owned lands in proximity to water bodies in response to the request made by the Governor’s office.**

Mr. Drew reported that DES has identified 10,000 acres of land distributed to 125 different properties statewide. 12 to 15 of these properties have a potential for lease agreements and have been digitized and added to the database; 110 remain to be digitized.

Chairman Ignatius added that Fish and Game submitted their information to Ken Gallagher at OEP and she believes they are complete. DOT has an anticipated completion date of March 15<sup>th</sup>. Mr. Carpenter announced that 3,000 copies of the State Land Map have been printed and distributed.

Chairman Ignatius will speak with the Governor's Council to determine their interest in a GIS demonstration by Ken Gallagher, adding that it may provide them with a better understanding of the multi-faceted capabilities of GIS.

#### **IV. CORD 2007 PROPOSED MEETING SCHEDULE**

Chairman Ignatius asked Council members if they would want to hold the July 11, 2007 CORD meeting offsite. Last summer, Council members held their July meeting at the NH Marine Patrol in Gilford. At adjournment, Council toured areas under SLR review.

Mr. McConaha stated that an offsite meeting provides local citizens with the opportunity to attend a CORD meeting and suggested Council may want to extend an invitation to local State Representatives and sponsors of HB 710.

Chairman Ignatius will contact NH Marine Patrol to see if an offsite meeting can be arranged.

May 3, 2007  
July 11, 2007  
September 6, 2007  
November 1, 2007

*All meetings will be held at the Office of Energy and Planning, 57 Regional Drive, Concord, NH, unless otherwise noticed. Meetings begin at 9:30 AM.*

#### **V. ADJOURNMENT**

The meeting adjourned at 12:10 PM.

Respectfully Submitted,

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Amy Ignatius  
Chairman

AI/mkz